

109TH CONGRESS  
1ST SESSION

# S. 581

To contain the costs of the medicare prescription drug program under part D of title XVIII of the Social Security Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 9, 2005

Mr. GRAHAM (for himself and Mr. SESSIONS) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To contain the costs of the medicare prescription drug program under part D of title XVIII of the Social Security Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Medicare Prescription  
5       Drug Cost Containment Act of 2005”.

6       **SEC. 2. INCLUSION IN ANNUAL REPORT OF MEDICARE**  
7                       **TRUSTEES OF INFORMATION ON STATUS OF**  
8                       **MEDICARE PRESCRIPTION DRUG ACCOUNT.**

9       (a) DETERMINATIONS OF EXCESS GENERAL REV-  
10       ENUE MEDICARE PRESCRIPTION DRUG FUNDING.—

1           (1) IN GENERAL.—Beginning in 2006, on the  
2           same date on which the President submits a budget  
3           to Congress, the Secretary of Health and Human  
4           Services (in this Act referred to as the “Secretary”),  
5           shall submit to Congress a determination on the fol-  
6           lowing:

7                   (A) PROJECTION.—Whether there is pro-  
8                   jected to be excess general revenue medicare  
9                   prescription drug funding (as defined in sub-  
10                  section (b)) for the fiscal year for which the  
11                  budget is submitted.

12                  (B) LOOK BACK.—Whether there was ex-  
13                  cess general revenue medicare prescription drug  
14                  funding (as defined in subsection (b)) in the fis-  
15                  cal year ending September 30 of the year prior  
16                  to the year in which such budget is submitted.

17           (2) MEDICARE PART D FUNDING WARNING.—  
18           For purposes of section 1105(i) of title 31, United  
19           States Code, and this Act, an affirmative determina-  
20           tion by the Secretary under either subparagraph (A)  
21           or (B) of paragraph (1) shall be treated as a medi-  
22           care part D funding warning in the fiscal year be-  
23           ginning on October 1 of the year in which the deter-  
24           mination is submitted to Congress.

25           (b) DEFINITIONS.—For purposes of this section:

(1) EXCESS GENERAL REVENUE MEDICARE PRESCRIPTION DRUG FUNDING.—The term “excess general revenue medicare prescription drug funding” means, with respect to a fiscal year during the period beginning on the date of enactment of this Act and ending on September 30, 2013, that—

(A) the amounts deposited in the Medicare Prescription Drug Account under section 1860D–16(c)(2) (42 U.S.C. 1395w–116(c)(2)), as added by section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173); exceed

(B) the part D target amount (as defined in paragraph (2)).

(2) PART D TARGET AMOUNT.—The term “part D target amount” means for a year—

(A) for fiscal year 2005, \$800,000,000;

(B) for fiscal year 2006, \$25,700,000,000;

(C) for fiscal year 2007, \$39,000,000,000;

(D) for fiscal year 2008, \$44,600,000,000;

(E) for fiscal year 2009, \$48,700,000,000;

(F) for fiscal year 2010, \$53,700,000,000;

(G) for fiscal year 2011, \$58,600,000,000;

(H) for fiscal year 2012, \$65,300,000,000;

and

1 (I) for fiscal year 2013, \$73,100,000,000.

2 (c) TECHNICAL AMENDMENT.—Section 1860D–  
 3 16(c)(3) of the Social Security Act (42 U.S.C. 1395w–  
 4 116(c)(3)), as added by section 101 of the Medicare Pre-  
 5 scription Drug, Improvement, and Modernization Act of  
 6 2003 (Public Law 108–173), is amended by striking  
 7 “under paragraph (1) or subsection (a)(2)” and inserting  
 8 “under paragraph (1), (2), or (4), gifts and bequests as  
 9 may be made as provided in section 201(i)(1), or accrued  
 10 interest on balances in the Account”.

11 **SEC. 3. PRESIDENTIAL SUBMISSION OF LEGISLATION.**

12 (a) IN GENERAL.—Section 1105 of title 31, United  
 13 States Code, as amended by section 802(a) of the Medi-  
 14 care Prescription Drug, Improvement, and Modernization  
 15 Act of 2003 (Public Law 108–173), is amended by adding  
 16 at the end the following new subsection:

17 “(i)(1) If there is a medicare part D funding warning  
 18 under section 2(a)(2) of the Medicare Prescription Drug  
 19 Cost Containment Act of 2005 made in a year, the Presi-  
 20 dent shall submit to Congress, within the 15-day period  
 21 beginning on the date of the budget submission to Con-  
 22 gress under subsection (a) for the succeeding year, pro-  
 23 posed legislation to respond to such warning.

24 “(2) Paragraph (1) does not apply if, during the year  
 25 in which the warning is made, legislation is enacted which

1 eliminates excess general revenue medicare funding (as de-  
 2 fined in section 2(b) of the Medicare Prescription Drug  
 3 Cost Containment Act of 2005) for the period beginning  
 4 with the fiscal year for which the determination is made  
 5 and ending on September 30, 2013, as certified by the  
 6 Board of Trustees of the Federal Supplementary Medicare  
 7 Insurance Trust Fund not later than 30 days after the  
 8 date of the enactment of such legislation.”.

9 (b) SENSE OF CONGRESS.—It is the sense of Con-  
 10 gress that legislation submitted pursuant to section  
 11 1105(i) of title 31, United States Code, as added by sub-  
 12 section (a), in a year should be designed to eliminate ex-  
 13 cess general revenue medicare funding (as defined in sec-  
 14 tion 2(b)) for the period that begins with the fiscal year  
 15 for which the determination is made and ends on Sep-  
 16 tember 30, 2013.

17 **SEC. 4. PROCEDURES IN THE HOUSE OF REPRESENTA-**  
 18 **TIVES.**

19 (a) INTRODUCTION AND REFERRAL OF PRESIDENT’S  
 20 LEGISLATIVE PROPOSAL.—

21 (1) INTRODUCTION.—In the case of a legislative  
 22 proposal submitted by the President pursuant to sec-  
 23 tion 1105(i) of title 31, United States Code, as  
 24 added by section 3(a), within the 15-day period  
 25 specified in paragraph (1) of such section, the ma-

1 jority leader of the House of Representatives (or his  
 2 designee) and the minority leader of the House of  
 3 Representatives (or his designee) shall introduce  
 4 such proposal (by request), the title of which is as  
 5 follows: “A bill to respond to a medicare part D  
 6 funding warning.” Such bill shall be introduced  
 7 within 3 legislative days after Congress receives such  
 8 proposal.

9 (2) REFERRAL.—Any legislation introduced  
 10 pursuant to paragraph (1) shall be referred to the  
 11 appropriate committees of the House of Representa-  
 12 tives.

13 (b) DIRECTION TO THE APPROPRIATE HOUSE COM-  
 14 MITTEES.—

15 (1) IN GENERAL.—In the House, in any year  
 16 during which the President is required to submit  
 17 proposed legislation to Congress under section  
 18 1105(i) of title 31, United States Code, as added by  
 19 section 3(a), the appropriate committees shall report  
 20 medicare funding legislation by not later than June  
 21 30 of such year.

22 (2) MEDICARE FUNDING LEGISLATION.—For  
 23 purposes of this section, the term “medicare funding  
 24 legislation” means—

1 (A) legislation introduced pursuant to sub-  
2 section (a)(1), but only if the legislative pro-  
3 posal upon which the legislation is based was  
4 submitted within the 15-day period referred to  
5 in such subsection; or

6 (B) any bill the title of which is as follows:  
7 “A bill to respond to a medicare part D funding  
8 warning.”.

9 (3) CERTIFICATION.—With respect to any  
10 medicare funding legislation or any amendment to  
11 such legislation to respond to a medicare part D  
12 funding warning, the chairman of the Committee on  
13 the Budget of the House shall certify—

14 (A) whether or not such legislation elimi-  
15 nates excess general revenue medicare funding  
16 (as defined in section 2(c)) for each fiscal year  
17 during the period beginning with the fiscal year  
18 for which the determination is made and ending  
19 on September 30, 2013; and

20 (B) with respect to such an amendment,  
21 whether the legislation, as amended, would  
22 eliminate excess general revenue medicare fund-  
23 ing (as defined in section 2(b)) for each fiscal  
24 year in such period.

1       (c) FALLBACK PROCEDURE FOR FLOOR CONSIDER-  
2   ATION IF THE HOUSE FAILS TO VOTE ON FINAL PASSAGE  
3   BY JULY 30.—

4           (1) After July 30 of any year during which the  
5   President is required to submit proposed legislation  
6   to Congress under section 1105(i) of title 31, United  
7   States Code, as added by section 3(a), unless the  
8   House of Representatives has voted on final passage  
9   of any medicare funding legislation for which there  
10   is an affirmative certification under subsection  
11   (b)(3)(A), then, after the expiration of not less than  
12   30 calendar days (and concurrently 5 legislative  
13   days), it is in order to move to discharge any com-  
14   mittee to which medicare funding legislation which  
15   has such a certification and which has been referred  
16   to such committee for 30 calendar days from further  
17   consideration of the legislation.

18          (2) A motion to discharge may be made only by  
19   an individual favoring the legislation, may be made  
20   only if supported by  $\frac{1}{5}$  of the total membership of  
21   the House of Representatives (a quorum being  
22   present), and is highly privileged in the House of  
23   Representatives. Debate thereon shall be limited to  
24   not more than 1 hour, the time to be divided in the  
25   House of Representatives equally between those fa-



1 voring and those opposing the motion. An amend-  
 2 ment to the motion is not in order, and it is not in  
 3 order to move to reconsider the vote by which the  
 4 motion is agreed to or disagreed to.

5 (3) Only 1 motion to discharge a particular  
 6 committee may be adopted under this subsection in  
 7 any session of Congress.

8 (4) Notwithstanding paragraph (1), it shall not  
 9 be in order to move to discharge a committee from  
 10 further consideration of medicare funding legislation  
 11 pursuant to this subsection during a session of Con-  
 12 gress if, during the previous session of the Congress,  
 13 the House of Representatives passed medicare fund-  
 14 ing legislation for which there is an affirmative cer-  
 15 tification under subsection (b)(3)(A).

16 (d) FLOOR CONSIDERATION IN THE HOUSE OF DIS-  
 17 CHARGED LEGISLATION.—

18 (1) In the House, not later than 3 legislative  
 19 days after any committee has been discharged from  
 20 further consideration of legislation under subsection  
 21 (c), the Speaker shall resolve the House into the  
 22 Committee of the Whole for consideration of the leg-  
 23 islation.

24 (2) The first reading of the legislation shall be  
 25 dispensed with. All points of order against consider-

1       ation of the legislation are waived. General debate  
2       shall be confined to the legislation and shall not ex-  
3       ceed 5 hours, which shall be divided equally between  
4       those favoring and those opposing the legislation.  
5       After general debate, the legislation shall be consid-  
6       ered for amendment under the 5-minute rule. Dur-  
7       ing consideration of the legislation, no amendments  
8       shall be in order in the House of Representatives or  
9       in the Committee of the Whole except those for  
10      which there has been an affirmative certification  
11      under subsection (b)(3)(B). All points of order  
12      against consideration of any such amendment in the  
13      Committee of the Whole are waived. The legislation,  
14      together with any amendments which shall be in  
15      order, shall be considered as read. During the con-  
16      sideration of the bill for amendment, the Chairman  
17      of the Committee of the Whole may accord priority  
18      in recognition on the basis of whether the Member  
19      offering an amendment has caused it to be printed  
20      in the portion of the Congressional Record des-  
21      ignated for that purpose in clause 8 of Rule XVIII  
22      of the Rules of the House of Representatives. De-  
23      bate on any amendment shall not exceed 1 hour,  
24      which shall be divided equally between those favoring  
25      and those opposing the amendment, and no pro

1        forma amendments shall be offered during the de-  
2        bate. The total time for debate on all amendments  
3        shall not exceed 10 hours. At the conclusion of con-  
4        sideration of the legislation for amendment, the  
5        Committee shall rise and report the legislation to the  
6        House of Representatives with such amendments as  
7        may have been adopted. The previous question shall  
8        be considered as ordered on the legislation and  
9        amendments thereto to final passage without inter-  
10      vening motion except 1 motion to recommit with or  
11      without instructions. If the Committee of the Whole  
12      rises and reports that it has come to no resolution  
13      on the bill, then on the next legislative day the  
14      House of Representatives shall, immediately after  
15      the third daily order of business under clause 1 of  
16      Rule XIV of the Rules of the House of Representa-  
17      tives, resolve into the Committee of the Whole for  
18      further consideration of the bill.

19            (3) All appeals from the decisions of the Chair  
20      relating to the application of the Rules of the House  
21      of Representatives to the procedure relating to any  
22      such legislation shall be decided without debate.

23            (4) Except to the extent specifically provided in  
24      the preceding provisions of this subsection, consider-  
25      ation of any such legislation and amendments there-

1 to (or any conference report thereon) shall be gov-  
2 erned by the Rules of the House of Representatives  
3 applicable to other bills and resolutions, amend-  
4 ments, and conference reports in similar cir-  
5 cumstances.

6 (e) LEGISLATIVE DAY DEFINED.—As used in this  
7 section, the term “legislative day” means a day on which  
8 the House of Representatives is in session.

9 (f) RESTRICTION ON WAIVER.—In the House of Rep-  
10 resentatives, the provisions of this section may be waived  
11 only by a rule or order proposing only to waive such provi-  
12 sions.

13 (g) RULEMAKING POWER.—The provisions of this  
14 section are enacted by Congress—

15 (1) as an exercise of the rulemaking power of  
16 the House of Representatives and, as such, shall be  
17 considered as part of the rules of the House of Rep-  
18 resentatives and shall supersede other rules only to  
19 the extent that they are inconsistent therewith; and

20 (2) with full recognition of the constitutional  
21 right of that House to change the rules (so far as  
22 they relate to the procedures of that House) at any  
23 time, in the same manner, and to the same extent  
24 as in the case of any other rule of that House.

1 **SEC. 5. PROCEDURES IN THE SENATE.**

2 (a) INTRODUCTION AND REFERRAL OF PRESIDENT'S  
3 LEGISLATIVE PROPOSAL.—

4 (1) INTRODUCTION.—In the case of a legislative  
5 proposal submitted by the President pursuant to sec-  
6 tion 1105(i) of title 31, United States Code, as  
7 added by section 3(a), within the 15-day period  
8 specified in paragraph (1) of such section, the ma-  
9 jority leader and minority leader of the Senate (or  
10 their designees) shall introduce such proposal (by re-  
11 quest), the title of which is as follows: “A bill to re-  
12 spond to a medicare part D funding warning.” Such  
13 bill shall be introduced within 3 days of session after  
14 Congress receives such proposal.

15 (2) REFERRAL.—Any legislation introduced  
16 pursuant to paragraph (1) shall be referred to the  
17 Committee on Finance.

18 (b) MEDICARE FUNDING LEGISLATION.—For pur-  
19 poses of this section, the term “medicare funding legisla-  
20 tion” means—

21 (1) legislation introduced pursuant to sub-  
22 section (a)(1), but only if the legislative proposal  
23 upon which the legislation is based was submitted  
24 within the 15-day period referred to in such sub-  
25 section; or

1           (2) any bill the title of which is as follows: “A  
2       bill to respond to a medicare part D funding warn-  
3       ing.”.

4       (c) QUALIFICATION FOR SPECIAL PROCEDURES.—

5           (1) IN GENERAL.—The special procedures set  
6       forth in subsections (d) and (e) shall apply to medi-  
7       care funding legislation, as described in subsection  
8       (b), only if the legislation—

9           (A) is medicare funding legislation that is  
10       passed by the House of Representatives; or

11          (B) contains matter within the jurisdiction  
12       of the Committee on Finance in the Senate.

13       (2) FAILURE TO QUALIFY FOR SPECIAL PROCE-  
14       DURES.—If the medicare funding legislation does  
15       not satisfy paragraph (1), then the legislation shall  
16       be considered under the ordinary procedures of the  
17       Standing Rules of the Senate.

18       (d) DISCHARGE.—

19           (1) IN GENERAL.—If the Committee on Fi-  
20       nance of the Senate has not reported medicare fund-  
21       ing legislation described in subsection (c)(1) by June  
22       30 of a year in which the President is required to  
23       submit medicare funding legislation to Congress  
24       under section 1105(i) of title 31, United States  
25       Code, as added by section 3(a), then any Senator

1 may move to discharge the Committee of any single  
2 medicare funding legislation measure. Only 1 such  
3 motion shall be in order in any session of Congress.

4 (2) DEBATE LIMITS.—Debate in the Senate on  
5 any such motion to discharge, and all appeals in  
6 connection therewith, shall be limited to not more  
7 than 2 hours. The time shall be equally divided be-  
8 tween, and controlled by, the maker of the motion  
9 and the majority leader, or their designees, except  
10 that in the event the majority leader is in favor of  
11 such motion, the time in opposition thereto shall be  
12 controlled by the minority leader or the minority  
13 leader's designee. A point of order under this sub-  
14 section may be made at any time. It is not in order  
15 to move to proceed to another measure or matter  
16 while such motion (or the motion to reconsider such  
17 motion) is pending.

18 (3) AMENDMENT.—No amendment to the mo-  
19 tion to discharge shall be in order.

20 (4) EXCEPTION IF CERTIFIED LEGISLATION EN-  
21 ACTED.—Notwithstanding paragraph (1), it shall  
22 not be in order to discharge the Committee from  
23 further consideration of medicare funding legislation  
24 pursuant to this subsection during a session of Con-  
25 gress if the chairman of the Committee on the

1 Budget of the Senate certifies that medicare funding  
 2 legislation has been enacted that eliminates excess  
 3 general revenue medicare funding (as defined in sec-  
 4 tion 2(c)) for each fiscal year in the period begin-  
 5 ning with the fiscal year for which the determination  
 6 is made and ending on September 30, 2013.

7 (e) CONSIDERATION.—After the date on which the  
 8 Committee on Finance of the Senate has reported medi-  
 9 care funding legislation described in subsection (c)(1), or  
 10 has been discharged (under subsection (d)) from further  
 11 consideration of such legislation, it is in order (even  
 12 though a previous motion to the same effect has been dis-  
 13 agreed to) for any Member of the Senate to move to pro-  
 14 ceed to the consideration of such legislation.

15 (f) RULES OF THE SENATE.—This section is enacted  
 16 by the Senate—

17 (1) as an exercise of the rulemaking power of  
 18 the Senate, and as such, it is deemed a part of the  
 19 rules of the Senate, but applicable only with respect  
 20 to the procedure to be followed in the Senate in the  
 21 case of a bill described in this paragraph, and it su-  
 22 persedes other rules only to the extent that it is in-  
 23 consistent with such rules; and

24 (2) with full recognition of the constitutional  
 25 right of the Senate to change the rules (so far as re-



- 1       lating to the procedure of the Senate) at any time,
- 2       in the same manner, and to the same extent as in
- 3       the case of any other rule of the Senate.

